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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

ALEXANDER CARDINALE; MORGAN
TAYLOR REID,

Plaintiffs,

vs.

JOSHUA RYAN OWEN p/k/a JAKE OWEN;
BIG LOUD RECORDS, LLC; BENJY LASHAR
DAVIS; MCCARTY & BLAKE, LLC d/b/a
PLAID FLAG MUSIC; JOE DAVID
HOOGERHYDE p/k/a JOEY HYDE; SONY
MUSIC PUBLISHING (US) LLC d/b/a SONY
ATV TREE PUBLISHING; NEIL ALLEN
MEDLEY; HORIPRO ENTERTAINMENT
GROUP, INC. d/b/a DIXIE STARS MUSIC and
d/b/a SON OF A CARL MUSIC,

Defendant.

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

JURY DEMAND

COMPLAINT

NATURE OF THE ACTION

1. This is an action for willful copyright infringement brought by Plaintiffs, Alexander Cardinale (“Cardinale”) and Morgan Taylor Reid (“Reid”) (collectively, “Plaintiffs”), who are the writers and copyright owners of the musical composition entitled “Made for You” (hereinafter

“Made for You (1)” or the “Original Work”), bearing U.S. Copyright Registration No. PA0002233661.

2. The Defendants in this Action are the credited writers, copyright claimants, performers, publishers, and owners of the musical composition and sound recordings *also* entitled “Made for You” (hereinafter, “Made for You (2)” or the “Infringing Works”), which, as set forth more fully herein, deliberately copied and infringed original elements from the Original Work – including, brazenly, the very title of the Original Work. Defendants copied the Original Work without license or consent and have exploited the subsequent Infringing Works to their collective benefit without regard to Plaintiffs’ rights and to Plaintiffs’ detriment. The Infringing Works directly misappropriate quantitatively and qualitatively important portions of Plaintiffs’ Original Work in a manner that is easily and instantly recognizable to the ordinary observer. The Infringing Works are substantially and strikingly similar to the Original Work as discussed fully below, and this obvious similarity satisfies both the extrinsic and intrinsic test for copyright infringement. All Defendants herein are practical partners of each other with regard to the infringement described herein. All Defendants herein are jointly and severally liable for willful copyright infringement, as all have benefitted from the copying of the Original Work as described herein, and all have violated one or more of Plaintiffs’ exclusive rights under Section 106 of the United States Copyright Act.

PARTIES

3. Plaintiff Cardinale, an individual, is a singer/songwriter based in California. Cardinale is the co-author and co-claimant to the copyright of the Original Work bearing U.S. Copyright Registration No. PA0002233661. Cardinale is also the featured performer on the sound recording embodying the Original Work.

4. Plaintiff Reid, an individual, is a songwriter also based in California. Reid is the co-author and co-claimant to the copyright of the Original Work bearing U.S. Copyright Registration No. PA0002233661.

5. Plaintiffs have standing to bring this action for copyright infringement because they co-own the copyright to the Original Work involved in this action and have the exclusive rights under Section 106 of the United States Copyright Act.

6. Upon information and belief, Defendant Joshua Ryan Owen p/k/a Jake Owen (“Owen”), an individual, is a country music artist, and at all times relevant to this Complaint, was a resident of Nashville, TN. Owen is the credited performer of the sound recording of the Infringing Works which appears on his album *Greetings from... Jake*. Also, upon information and belief, Owen has generated substantial revenue from his authorization to unlawfully exploit, and direct exploitation of, the Infringing Work.

7. Upon information and belief, Defendant Big Loud Records, LLC f/k/a Big Loud Mountain Records, Nashville, LLC (“Big Loud”), is a Tennessee limited liability company with principal place of business at 111 16th Avenue S., Suite 201, Nashville, TN 37212-2336. Also, upon further information and belief, Big Loud is Owen’s record label and copyright claimant to the sound recording of the Infringing Work. Upon information and belief, Big Loud has generated substantial revenue from his authorization to unlawfully exploit, and direct exploitation of, the Infringing Work.

8. Upon information and belief, Defendant Benjy Lashar Davis (“Davis”), an individual, is one of the credited songwriters of the Infringing Work and co-claimant of the compositional copyright of the Infringing work. Upon further information and belief, Davis was a resident of Nashville, TN at all times relevant to this Complaint. Also, upon information and belief,

Davis has generated substantial revenue from his authorization to unlawfully exploit, and direct exploitation of, the Infringing Work.

9. Upon information and belief, Defendant Joe David Hoogerhyde p/k/a Joey Hyde (“Hyde”), an individual, is one of the credited songwriters of the Infringing Work and co-claimant of the compositional copyright of the Infringing Works. Upon further information and belief, Hyde was a resident of Nashville, TN at all times relevant to this Complaint. Also, upon information and belief, Hyde has generated substantial revenue from his authorization to unlawfully exploit, and direct exploitation of, the Infringing Work.

10. Upon information and belief, Defendant Neil Allen Medley (“Medley”), an individual, is one of the credited songwriters of the Infringing Work and co-claimant of the compositional copyright of the Infringing Works. Upon further information and belief, Medley was a resident of Nashville, TN at all times relevant to this Complaint. Also, upon information and belief, Medley has generated substantial revenue from his authorization to unlawfully exploit, and direct exploitation of, the Infringing Work.

11. Upon information and belief, Defendant McCarty & Blake, LLC d/b/a Plaid Flag Music (“Plaid Flag”) is a Tennessee limited liability company with principal place of business at 2405B Elliot Avenue, Nashville, TN 37204-2701. Upon information and belief, Plaid Flag is one of the credited publishers of the Infringing Works and co-claimant of the compositional copyright of the Infringing Work. Also, upon information and belief, Plaid Flag has generated substantial revenue from his authorization to unlawfully exploit, and direct exploitation of, the Infringing Work.

12. Upon information and belief, Defendant Sony Music Publishing (US) LLC f/k/a Sony/ATV Music Publishing and d/b/a Sony ATV Tree Publishing (“Sony/ATV”) is a Delaware

limited liability company with principal place of business at 25 Madison Avenue, New York, NY 10010-3685. Upon further information and belief, Sony/ATV maintains an office at 8 Music Square W., Nashville, TN 37203. Upon information and belief, Sony/ATV is one of the credited publishers of the Infringing Works and co-claimant of the compositional copyright of the Infringing Work. Also, upon information and belief, Sony/ATV has generated substantial revenue from his authorization to unlawfully exploit, and direct exploitation of, the Infringing Work.

13. Upon information and belief, Defendant Horipro Entertainment Group, Inc. d/b/a Dixie Stars Music and d/b/a Son Of A Carl Music (collectively, “Horipro”) is a California corporation with principal place of business at 437 E Iris Drive, Nashville, TN 37204-3132. Upon information and belief, Horipro is one of the credited publishers of the Infringing Works and co-claimant of the compositional copyright of the Infringing Work. Also, upon information and belief, Horipro has generated substantial revenue from his authorization to unlawfully exploit, and direct exploitation of, the Infringing Work.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction with respect to Plaintiffs’ copyright infringement claim based upon 28 U.S.C. §§ 1331 and 1338(a) in that the controversy arises under the Copyright Act and Copyright Revision Act of 1976 (17 U.S.C. § 101 *et seq.*), which is within the exclusive jurisdiction of federal courts pursuant to 28 U.S.C. § 1331.

15. This Court has general personal jurisdiction over Defendants because each Defendant has continuous and systematic contacts within the Middle District of Tennessee such that they can be found to be essentially “at home” within this Judicial District. Specifically:

- a. Upon information and belief, Defendant Owen is presently, and at all times relevant to the Complaint was, a resident of Nashville, TN or otherwise within the Middle District of Tennessee.
- b. Upon information and belief, Defendant Davis is presently, and at all times relevant to the Complaint was, a resident of Nashville, TN or otherwise within the Middle District of Tennessee.
- c. Upon information and belief, Defendant Hyde is presently, and at all times relevant to the Complaint was, a resident of Nashville, TN or otherwise within the Middle District of Tennessee.
- d. Upon information and belief, Defendant Medley is presently, and at all times relevant to the Complaint was, a resident of Nashville, TN or otherwise within the Middle District of Tennessee.
- e. Upon information and belief, Defendant Big Loud, is a Tennessee limited liability company with principal place of business located within the Middle District of Tennessee at 111 16th Avenue S., Suite 201, Nashville, TN 37212-2336.
- f. Upon information and belief, Defendant Plaid Flag, is a Tennessee limited liability company with principal place of business located within the Middle District of Tennessee at 2405B Elliot Avenue, Nashville, TN 37204-2701.
- g. Upon information and belief, Defendant Sony/ATV is a Delaware limited liability, and through its offices at 8 Music Square W., Nashville, TN 37203 maintains continuous and systematic contacts with the Middle District of Tennessee such that it is essentially “at home” here.

- h. Upon information and belief, Defendant Horipro is a California Corporation with principal place of business located within the Middle District of Tennessee at 437 E Iris Drive, Nashville, TN 37204-3132.

16. This Court has specific personal jurisdiction over the Defendants for numerous reasons, namely because, on information and belief, the acts constituting the infringement of the Original Work all occurred within the Middle District of Tennessee, including but not limited to:

- a. Defendants Hyde, Davis, and Medley purportedly wrote the Infringing Work in Nashville, TN;
- b. Defendant Owen, at the bequest and benefit of Defendant Big Loud, recorded the sound recording of the Infringing Work at Ocean Way Studios located in Nashville, TN;
- c. Defendant Owen has publicly performed the Infringing Work within the Middle District of Tennessee in violation of the Plaintiffs' exclusive copyrights; and
- d. The Defendants, who all reside or operate out of Nashville, TN, or otherwise within the Middle District of Tennessee have all generated substantial revenue from their authorization to unlawfully exploit, and direct exploitation of, the Infringing Work.

17. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(a) because Defendants are all subject to personal jurisdiction in the Middle District of Tennessee and have committed unlawful acts of infringement in this Judicial District by creating the Infringing Works within this Judicial District and by directing their unlawful activities against Tennessee citizens and others with a presence in Tennessee.

FACTS

A. The Original Work

18. Plaintiffs Cardinale and Reid wrote the Original Work in 2014 and first released on Mr. Cardinale's album "Digital Youth" released by Hashtag Records.

19. The Original Work enjoyed a heavy rotation on SiriusXM Radio The Pulse between February and July 2015.

20. In December 2015, the Original Work was chosen to be the anthem for Coca-Cola's multi-national "Share a Coke and a Song" ad campaign.

21. In January 2016, the Original Work was re-released as a single on Atlantic Records/WEA to coincide with the debut of the Coke ad campaign, which aired worldwide in over 100 countries from January 2016 through June 2018 creating hundreds of millions of impressions worldwide.

22. In addition to being the overall-anthem and backdrop of the entire "Share a Coke and a Song" campaign, the Original Work was featured specifically in a Coca-Cola ad entitled "Break Up". In addition to also creating millions of impressions as an advertisement, the video of "Break Up" (available at https://www.youtube.com/watch?v=ejkaBA_CVec) has been viewed on YouTube over 1.3 million times.

23. During this time, the hook and title of the Original Work appeared on over two hundred fifty million bottles of Coca-Cola like those pictured below, which also provided a QR-code which was linked to the Original Work on streaming platforms.



24. To date, the Original Work has been streamed over 10 million times and has several million views on various YouTube videos, including the aforementioned Coca-Cola ads, as well as the music video and lyrics video for the Original Work.

B. Infringement by Defendants

25. As discussed above, this action for willful copyright infringement arises from Defendants' infringement of Plaintiffs' copyright in the musical composition "Made for You (1)".

26. Defendants are the performer, writers, producers, record labels, manufacturers, distributors, and publishers of the infringing "Made for You (2)" musical compositions, sound recordings, music videos, and other products embodying the Infringing Works.

27. The infringing "Made for You (2)" has reached Number 1 on the Billboard Country Charts and is currently in its eleventh week on the Billboard Hot 100 songs peaking at Number 32.

28. Upon information and belief, "Made for You (2)" is the first Number 1 song for Defendants Davis, Hyde, and Medley.

29. While Defendants have reaped the successes of “Made for You (2)”, which as discussed below lifts directly from Plaintiffs’ song, Plaintiffs have not been so fortunate and have not been afforded the opportunity to enjoy the success of their composition.

30. Defendants named herein are the writers, performers, producers, record label, distributors, publishers, and others, who were involved with the creation, release, reproduction, distribution, exploitation, licensing, and public performance of the Infringing Works, embodied in all forms of media, including videos, digital downloads, records, motion pictures and advertisements, all of which constitute, among other things, the improper preparation of a derivative work and direct, vicarious, and contributory infringement. As co-infringers, Defendants are jointly and severally liable for all amounts owed.

31. Each Defendant is a “practical partner,” as that term is defined and interpreted by courts in this Circuit, in the infringing acts with all other Defendants, and are thus jointly and severally liable for each other’s profits. As described throughout this Complaint, each of the Defendants had an important role in the infringing activity, and worked together to accomplish it, were involved in directing various aspects of many of the coordinated infringing activities, and all had a significant financial interest in the infringing activity.

32. These acts were willful, knowing, and malicious and perpetrated without regard to Plaintiffs’ rights.

(1) Unauthorized Release and Exploitation of “Made for You (2)”

33. Upon information and belief, Defendants Davis, Hyde, and Medley allegedly began writing the song in late May 2017 in Nashville, Tennessee.

34. Upon information and belief, Defendants Davis, Hyde, and Medley created a demo recording of the Infringing Work which was presented to Defendant Owen.

35. The Infringing Work appears on Defendant Owen’s album *Greetings From . . . Jake*, which was released by Defendant Big Loud on March 29, 2019.

36. Upon information and belief, *Greetings From . . . Jake* debuted at Number 8 on Billboard’s Top Country Albums chart.

37. Upon information and belief, Defendant Owen recorded the sound recording for the Infringing Work in Nashville, Tennessee at Ocean Way Studios.

38. Upon information and belief, Defendant Owen performed the Infringing Work on an episode of ABC’s *The Bachelorette* in June 2019, and at the wedding of Michael Ray and Carly Pearce in October of 2019.

(2) Striking Similarity Between “Made for You (1)” and “Made for You (2)”

39. Upon hearing “Made for You (2)”, Plaintiffs instantly recognized the similarity with their song, “Made for You (1)”.

40. The Infringing Work makes use of nearly all of the Original Work, including, but not limited to, melodies from the verse and chorus, the “hook” of the Original Work, the lyrics, the theme, the harmony, and the arrangement.

41. To write and record the Infringing Work, Defendants intentionally and unlawfully copied the unique and original elements found in Plaintiffs’ “Made for You (1)”. The misappropriated portions of the Original Work run throughout the Infringing Work and make up over half of the Infringing Work. “Made for You (1)” and “Made for You (2)” are both extrinsically and intrinsically strikingly similar.

42. Most striking to any observer would be the “hook” of the Infringing Work, which as detailed in the transcriptions below directly lifts the lyrics **and** melody from the hook of the Original Work.

“Cardinale” (0:21)

Scale degrees: 3 3 2 1 3 2 1 1

knew, Dar - lin' I was made__ for you__

Chords: ⁵ A min G maj C maj

“Owen” (0:38)

Scale degrees: 3 3 2 1 1 3 2 1 1

you, yeah__ I was made__ for you__

Chords: ⁵ F maj G maj C maj

43. The striking similarity of the notes, structure, harmony, vocal style, and rhythm are clear indicators that “Made for You (2)” copies “Made for You (1)”.

44. The songs’ similarities are found throughout, but most notably, as shown in the transcriptions above, the Infringing Works directly lifts the lyrics and melody from the hook of the Original Work. The stolen hook appears prominently within the chorus of the Infringing Works and appears numerous times throughout. The similarities go beyond substantial, which is itself sufficient to establish copyright infringement, and said similarities are in fact striking indicators that “Made for You (2)” copies the original copyrighted elements of “Made for You (1).

(3) Defendants' Access to Plaintiffs' Original Work

45. As discussed above, Plaintiffs' Original Work enjoyed significant rotation on Sirius XM Radio, was the anthem for a multi-national Coca-Cola ad campaign creating millions of impressions worldwide, and released as a single on Atlantic Records/WEA to coincide with the debut of the Coke ad campaign.

46. It can be no coincidence that the Defendants purportedly wrote the Infringing Work in May of 2017, during the time when the Original Work was the anthem of the multi-national "Share a Coke and a Song" ad campaign, and when the lyrics from the Original Work (which were also used in the Infringing Work) were prominently featured on Coca-Cola bottles and cans.

47. As discussed above, the Original work has enjoyed tens of millions of impressions worldwide, thus Defendants had access to Plaintiffs' "Made for You (1)".

48. Furthermore, "Made for You (1)" and "Made for You (2)" are strikingly similar, meaning that access is presumed.

CAUSES OF ACTION

COUNT I

Direct, Contributory, and Vicarious Copyright Infringement

49. Plaintiffs repeat and re-allege each of the foregoing paragraphs, as though fully set forth herein.

50. Plaintiffs are the owners of the United States copyright in all rights, titles, and interests in the musical composition "Made for You" bearing U.S. Copyright Registration Number PA0002233661.

51. Defendants had access to "Made for You (1)" (as discussed above). Furthermore, "Made for You (2)" is strikingly similar to "Made for You (1)", meaning that access is presumed.

52. Defendants' unauthorized reproduction, distribution, public performance, display, and creation of a derivative work, "Made for You (2)," infringes Plaintiffs' exclusive rights in violation of the Copyright Act, 17 U.S.C. § 101 *et seq.*

53. Defendants did not seek or receive permission to copy or interpolate any portion of "Made for You (1)" into "Made for You (2)." All of the elements of "Made for You (1)" copied by "Made for You (2)" are original to "Made for You (1)."

54. Defendants' conduct has at all times been knowing, willful, and with complete disregard to Plaintiffs' rights and objections.

55. As a proximate cause of Defendants' wrongful conduct, Plaintiffs have been irreparably harmed.

56. "Made for You (2)" copies quantitatively and qualitatively distinct, important, and recognizable portions of "Made for You (1)." This copying satisfies both the intrinsic and extrinsic tests to establish copyright infringement.

57. From the date of the creation of the infringing composition and sound recording "Made for You (2)," all Defendants have infringed Plaintiffs' copyright interest in "Made for You (1)" including: (a) by substantially copying and publicly performing, or authorizing the copying and public performances, including publicly performing "Made for You (2)" on the radio, live concerts, personal appearances, and on video, television, and otherwise; (b) by authorizing the reproduction, distribution, and sale of the records and digital downloads through the execution of licenses, and/or actually selling, manufacturing, and/or distributing "Made for You (2)" through various sources; (c) by substantially copying and the related marketing and promotion of the sale of the records, videos, tickets to concerts and other performances, and other merchandise; and (d) by participating in and furthering the aforementioned infringing acts, and/or sharing in the

proceeds therefrom, all through substantial use of “Made for You (1)” in and as part of “Made for You (2),” packaged in a variety of configurations and digital downloads, mixes, and versions, and performed in a variety of ways including radio, concerts, personal appearances, video, television, and/or otherwise.

58. Plaintiffs have received no copyright ownership interests in, and for any of the exploitations of, “Made for You (2)” or any of the works associated with “Made for You (2).”

59. Defendants have reproduced and/or distributed and continue to manufacture, reproduce, and distribute large numbers of copies of “Made for You (2),” which violate Plaintiffs’ copyrights and are at issue in this lawsuit. Defendants have not only marketed and exploited the songs that are at issue in this lawsuit, but have granted or caused to be granted to various parties licenses to reproduce, sample, and/or distribute the songs that are in violation of Plaintiffs’ copyrights.

60. With knowledge of the infringement, Defendants have induced, caused, or materially contributed to the infringing conduct of others, such that they should be found to be contributorily liable.

61. Defendants had the right and ability to control other infringers and have derived a direct financial benefit from that infringement such that Defendants should be found to be vicariously liable.

62. The infringement is continuing as the album *Greetings From...Jake*, on which “Made for You (2)” appears, continues to be sold and both the album and single “Made for You (2)” continues to be licensed for sale, downloads, ringtones, mastertones, and other exploitations by Defendants, or their agents.

63. As a direct and proximate result of the conduct of Defendants, Plaintiffs have suffered actual damages including lost profits, lost opportunities, loss of goodwill, and lost publicity.

64. Plaintiffs are entitled to Defendants' profits relating to foreign sales of copies of the Infringing Works that were manufactured, distributed, or otherwise infringed domestically.

65. Pursuant to 17 U.S.C. § 504(b), Plaintiffs are entitled to actual damages, including the substantial profits of Defendants, as will be proven at trial. In the alternative, Plaintiffs request the maximum amount for willful statutory damages pursuant to 17 U.S.C. § 504(c).

66. Plaintiffs are further entitled to a running royalty on all future exploitations of the Infringing Works.

67. Defendants' conduct is causing and, unless enjoined by this Court, will continue to cause Plaintiffs irreparable injury that cannot be fully compensated or measured in monetary terms. Plaintiffs have no adequate remedy at law. Pursuant to 17 U.S.C. § 502, Plaintiffs are entitled to a permanent injunction prohibiting the reproduction, distribution, sale, public performance, or other use or exploitation of "Made for You (2)," including all Infringing Works, or, in the alternative, a continuing royalty following judgment in an amount to be determined at trial.

68. Plaintiffs also ask to be awarded their costs, including reasonable attorneys' fees, pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants and for the following relief:

A. A declaration that Defendants have willfully infringed Plaintiffs' copyrighted work in violation of the Copyright Act;

B. A declaration that Defendants are directly, vicariously and/or contributorily liable for

copyright infringement, as applicable;

C. A permanent injunction requiring Defendants and their agents, servants, employees, officers, attorneys, successors, licensees, partners, and assigns, and all persons acting in concert or participation with each or any one of them, to cease directly and indirectly infringing, and causing, enabling, facilitating, encouraging, promoting, inducing, and/or participating in the infringement of any of Plaintiffs' rights protected by the Copyright Act;

D. If the Court determines a permanent injunction is not the appropriate remedy for the continued infringement of Plaintiffs' rights under the Copyright Act, then pursuant to precedent, be compensated by a running royalty paid on all exploitations of "Made for You (2)" commencing from the date of judgment and for all amounts not taken into consideration in the judgment;

E. An award of damages pursuant to 17 U.S.C. § 504(b), including actual damages, inclusive of the injury to the market value of their copyright in the Original Work, and the profits of Defendants as will be proven at trial, including a finding that Defendants are "practical partners" of each other and jointly and severally liable for the profits of each other; or, in the alternative, the maximum amount of statutory damages pursuant to 17 U.S.C. § 504(c);

F. An award of attorneys' fees and full costs pursuant to 17 U.S.C. § 505 and under other applicable law;

G. For pre-judgment and post-judgment interest according to law, as applicable; and

H. For such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to the Federal Rules of Civil Procedure Rule 38(b), and otherwise, Plaintiffs respectfully demand a trial by jury.

Dated: July 27, 2021

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